



State of Vermont
Public Service Board

MEMORANDUM

To: Vermont Electric Distribution Utilities
EEU E-mail Service List

From: Judith C. Whitney, Deputy Clerk of the Board

A handwritten signature in cursive script, appearing to read "JCW", enclosed in a hand-drawn oval.

Re: 2010 Energy Efficiency Charge Rates

Date: October 30, 2009

The Public Service Board ("Board") has determined, based upon the calculations provided by the Department of Public Service ("DPS") and pursuant to Board Rule 5.300, the 2010 Energy Efficiency Charge ("EEC") rates to take effect with bills rendered February 1, 2010.

The 2010 EEC rates are higher than the 2009 EEC rates for all customers. The increase in the rates is largely explained by two factors. First, as previously determined by the Board, there is a 15 percent increase in the Energy Efficiency Utility's budget from 2009 to 2010. Second, under Board Rule 5.300 undercollections in prior years are added to the amount that needs to be collected from ratepayers in the coming year via the EEC, while overcollections in prior years reduce the amount that needs to be collected from ratepayers in the coming year via the EEC. These under- and over-collections are calculated by customer class. The net effect of the under- and over-collections in 2008 and 2009 was a further increase in the amount to be collected from nearly all customer classes, although the amount of this increase varied by customer class.

In addition, the rates increase by different percentages for different customer classes or rate components (kW vs. kWh) for a single class because Board Rule 5.300 provides that the rate for each class and rate component will be calculated separately, using the billing determinants from the most recent complete calendar year. As a result, changes in customer usage from one year to the next have different effects on the EEC rates for each customer class.

Finally, as explained more fully below, the Board has established these rates taking into account the possible effects on EEC collections of the new self-managed energy efficiency program ("SMEEP") that legislation passed in 2009 requires the Board to establish by January 1, 2010. The 2010 EEC rates are the same as they would have been if the Legislature had not created the SMEEP.

The 2010 EEC rates shall be as follows for all utilities except for the City of Burlington Electric Department ("BED"):

Rates for Customers Without Demand Charges

Residential \$0.00773/kWh

Commercial \$0.00666/kWh

Industrial \$0.00519/kWh

Rates for Customers with Demand Charges

Commercial demand customers \$0.00420/kWh plus
\$0.7280/kW

Industrial demand customers \$0.00383/kWh plus
\$0.6350/kW

Rates for Unmetered Street and Security Light Customers

\$0.00666/kWh times the nominal wattage of the light times 360 hours per month

The 2010 Energy Efficiency Charge rates for BED customers shall be as follows:

BED Rates for Customers Without Demand Charges

Residential \$0.00621/kWh

Commercial \$0.00535/kWh

Industrial \$0.00393/kWh

BED Rates for Customers with Demand Charges

Commercial demand customers \$0.00326/kWh plus
\$0.8396/kW

Industrial demand customers \$0.00265/kWh plus
\$1.0027/kW

BED Rates for Unmetered Street and Security Light Customers

\$0.00535/kWh times the nominal wattage of the light times 354 hours per month

Utilities shall provide notice to customers of the new EEC rates, pursuant to Public Service Board Rule 5.308(A).

Effect of the SMEEP on the EEC Rate Calculation

Background

New legislation enacted in 2009 requires the Board to enact a class of self-managed energy efficiency programs by December 31, 2009, to take effect for a three-year period beginning January 1, 2010.¹ The statute also provides that entities approved to participate in the SMEEP shall be exempt from paying the EEC. As a result, the implementation of the SMEEP will affect the amount collected via the EEC.

The Board currently has a process underway to review the DPS's proposal for a SMEEP.² From a public-policy perspective, it would be better for the Board to make all the decisions necessary to implement the SMEEP prior to establishing the 2010 EEC rates, but that cannot be accomplished within the timeframe set forth in Rule 5.300.³

On October 9, 2009, the Board sent a memorandum to the Energy Efficiency Utility ("EEU") E-mail Service List explaining this timing issue and noting that the Board could waive the timeframe in Rule 5.300 and wait to calculate the 2010 EEC rates until all decisions necessary to implement the SMEEP have been made. This would resolve the timing issue, but it would not allow customers to be informed of the 2010 EEC rates before customers start incurring those charges. This would be inconsistent with a long-standing Board policy that customers should know the rates they are paying for a service before they use the service. For this reason, the Board stated that it was reluctant to follow this approach. Instead, the Board identified four possible options for establishing EEC rates now that would not need to be revised after the SMEEP is implemented. This would avoid the customer-notice problem described above, and avoid the extra costs associated with changing EEC rates twice in a short period of time. The Board asked interested persons to comment on these options and any other options for addressing the timing conflict that interested persons may identify.

The four options identified by the Board were:

- Option 1: Follow Rule 5.300 — Calculate 2010 EEC rates as if the SMEEP were not going to be implemented (that is, using all the data provided for in Rule 5.300). Under this option, the EEU budget for 2010 would remain the same, but the full amount of the 2010 budget would probably not be collected from remaining ratepayers.⁴ Pursuant to Rule 5.300, the resulting undercollection of the 2010 EEU budget would be added to the amount to be

¹See 30 V.S.A. § 209(h).

²Information about this process is posted on the Board's website at www.psb.vermont.gov/projects/eeu/smeep.

³Once the Board establishes the design of the SMEEP, qualifying customers who wish to participate will need to apply to the Board, and the Board will need to review those applications. It will not be possible to complete this process prior to November 1, 2009.

⁴This is because the EEC would not be applied to the kWh and kW used by the customers participating in the SMEEP.

collected via the EEC in 2011. Under this option, all customers not participating in the SMEEP would pay the same dollar amount of 2010 EEC charges that they would have if the Legislature had not created the program, but those customers would pay more in 2011.

- Option 2: Reduce 2010 EEU Budget — Calculate 2010 EEC rates as if the SMEEP were not going to be implemented (that is, using all the data provided for in Rule 5.300). Then, after participation in the program is known, reduce the 2010 EEU budget by the amount that the participants would have paid in EEC charges (using the data associated with those customers that was included in the EEC calculation). Under this option, all customers not participating in the SMEEP would pay the same dollar amount of 2010 EEC charges that they would have if the Legislature had not created the program.
- Option 3: Partially Reduce 2010 EEU Budget — Calculate 2010 EEC rates as if the SMEEP were not going to be implemented (that is, using all the data provided for in Rule 5.300). Then, after participation in the program is known, reduce the 2010 EEU budget by the amount that the participants will spend on energy efficiency under the SMEEP. Under this option, all customers not participating in the SMEEP will pay more in 2010 EEC charges than they would have if the Legislature had not created the program (to make up the difference between what participants will spend on energy efficiency under the SMEEP and what they would have paid in EEC charges), but less than if the program participants' energy efficiency spending were not considered in the calculation.
- Option 4: Remove Potential SMEEP Participants From Calculation — Adjust the kWh and kW sales and revenue data used to calculate the 2010 EEC rates now to remove amounts associated with customers eligible to apply for the SMEEP.⁵ Under this option, the EEU budget would remain the same, and all customers not participating in the SMEEP would pay more in 2010 EEC charges than they would have if the program had not been created.

Interested Persons' Comments

Associated Industries of Vermont ("AIV"), the City of Burlington Electric Department ("BED"), Central Vermont Public Service Corporation ("CVPS"), Conservation Law Foundation ("CLF"), Green Mountain Power Corporation ("GMP"), and the DPS filed comments on these options. CLF and the DPS filed reply comments on these options.

⁵As noted by the DPS in its October 5, 2009, comments on the SMEEP, it appears that only one customer meets the statutory criteria for participating in the program, and that customer has indicated its intent to participate.

AIV, CVPS, GMP, and the DPS recommend that the Board select Option 2: Reduce 2010 EEU Budget. CLF recommends that the Board select Option 1: Follow Rule 5.300. BED recommends that its EEU budget and EEC rates not be affected by the creation of the SMEEP.

AIV supports Option 2 for two reasons. First, AIV argues that funds spent in the SMEEP will still be spent on energy efficiency investments, just not by the EEU; according to AIV, there is no reason why these funds should be "recovered" from ratepayers who are not participating in the SMEEP. Second, AIV asserts that increases in EEC charges should be minimized to the extent possible as a result of the continued economic difficulties.

CVPS supports Option 2. CVPS claims that the savings acquired under the SMEEP will augment those achieved by the EEU and it should not be necessary to increase the EEC paid by customers not participating in the SMEEP in order to acquire the full amount of savings that were contemplated under the Board's EEU Budget Orders.

GMP supports Option 2. GMP asserts that Option 2 is the most equitable solution to all concerned parties (including customers at large, SMEEP participants, and the EEU). First, GMP states that it does not believe that the Legislature intended to exempt one class of customers from paying the EEC at the expense of another set of customers. Second, GMP argues that current customer participation in the SMEEP is unknown, and the more SMEEP participants there are, the greater the impacts on customers not participating in that program. Third, GMP asserts that, if both the obligation to serve a SMEEP customer and the corresponding EEC collected from the SMEEP customer are removed, the EEU will have the same amount of money to spend on every other customer that it would have had absent the SMEEP program.

The DPS supports Option 2 for several reasons. First, the DPS asserts that it was not the Legislature's intent when it created the SMEEP to raise non-participants' electric rates, nor was the intent to increase the amount of energy efficiency acquired by the state. According to the DPS, all options except number 2 would have those effects and only Option 2 does not significantly impact SMEEP non-participants. Second, the DPS notes that it is appropriate to hold non-participants harmless in these difficult economic times. Third, the DPS also asserts that, in practice, most of the funding "reduction" associated with Option 2 will not affect EEU programs or delivery of efficiency resources since the eligible SMEEP participant is the same entity that participated in the Customer Credit Program and under that program, 90 percent of that entity's EEC payments were returned to the participant. In 2010, approximately \$155,000, less the EEU's administrative costs associated with administering the Customer Credit Program and the gross receipts tax, would no longer be available to the EEU to deliver system-wide benefits. According to the DPS, this relatively small amount of funding will have little impact on program delivery. Finally, the DPS asserts that the implementation of the SMEEP will have little impact on

the EEU's ability to meet its efficiency resource commitments in the regional Forward Capacity Market.⁶

CLF supports Option 1 because "[r]educing the EEU budget is contrary to Vermont law and unsound energy and environmental policy." CLF asserts that Option 1 is the only option that does not reduce the EEU budget and allows Vermont to achieve the energy efficiency savings required by law. CLF argues that the law does not authorize the Board to reduce the EEU budget as a result of the SMEEP program. CLF asserts that the energy efficiency budget must still be set at a level to achieve all reasonably available cost-effective energy efficiency savings, and since SMEEP funds can be spent on projects that do not involve electric energy efficiency, adjusting the EEU budget would result in a reduction in the amount collected to acquire electric energy efficiency savings. CLF also argues that reducing the EEU budget is contrary to state policies supporting energy efficiency, using least-cost resources, and reducing pollution and greenhouse-gas emissions.

BED notes that no customer in Burlington appears to meet the statutory requirements for participation in the SMEEP. Therefore, BED argues that since BED's budget and EEC collection amount are calculated separately from the rest of the state, BED's 2010 EEU budget and 2010 EEC rates should not be affected by the creation of the SMEEP.

In CLF's reply comments, it asserts that not reducing the EEU budget is in the best interest of Vermont ratepayers because the EEU budget will continue to provide a lower-cost resource than other available options. CLF disputes the DPS's assertion regarding the Legislature's intent when it created the SMEEP; CLF asserts instead that if the Legislature had wanted the creation of the SMEEP to result in the reduction of the EEU budget that was already in place, the Legislature would have provided for this in the legislation authorizing SMEEP. CLF also argues that maintaining the current EEU budget would have a *de minimus* effect on rates, while reducing the EEU budget would deprive customers in the aggregate from obtaining the benefits of acquiring low-cost energy efficiency that would reduce overall power costs.

In the DPS's reply comments, it disputes CLF's contention that reducing the EEU budget as provided in Option 2 is not authorized by law. The DPS asserts that the SMEEP's creation does not alter the Board's obligation pursuant to 30 V.S.A. § 209(e)(14) to "consider the impact on retail electric rates and bills of programs delivered under subsection (d) of this section." The DPS also contends that the concerns about rate impacts

⁶30 V.S.A. § 209(h)(4)(L) provides that SMEEP participants may submit projects for payments under the Independent System Operator of New England's forward capacity market. Previously, the Energy Efficiency Utility included the capacity savings expected from the eligible SMEEP participant's facility in its Forward Capacity Market claims.

that were acknowledged by the Board when it provided for no increase in the 2009 EEU budget persist.

Board Decision

After considering interested participants' comments, the Board has determined that Option 2 should be followed. The 2010 EEC rates should be calculated as if the SMEEP were not going to be implemented (that is, using all the data provided for in Rule 5.300). Then, after participation in the program is known, the Board will reduce the 2010 EEU budget by the amount that the participants would have paid in EEC charges (using the data associated with those customers that was included in the EEC calculation).

The Board has considered CLF's argument that the Board does not have the statutory authority to modify the EEU budget as a result of the creation of the SMEEP. CLF asserts that the statute requires the Board to continue to set the EEU budget at a level to achieve all reasonably available cost-effective energy efficiency savings. The Board is persuaded that an EEU budget that is reduced by the amount that the SMEEP participants would have paid in EEC charges will still meet this statutory requirement. This is because, as the DPS notes, it is likely that, at least in the short-term, approximately the same amount of electric efficiency will be acquired by the combination of the EEU and the SMEEP as would have been acquired by the EEU in the absence of the SMEEP. This conclusion is supported by the DPS's assertion that the customer who will likely participate in the SMEEP has indicated that, in the short-term, most of its energy efficiency investments are likely to be in electric efficiency measures.

The Board recognizes that, as CLF points out in its reply comments, the current EEU budget continues to acquire cost-effective and available energy efficiency savings. However, 30 V.S.A. § 209(e)(14) requires the Board to "consider the impact on retail electric rates and bills of programs delivered under subsection (d) of this section." When the Legislature created the SMEEP, it did not alter this existing statutory requirement. The Board used this statutory authority to consider whether the EEU budget should be reduced to reflect the SMEEP's creation. Ultimately, the Board was persuaded that, in this difficult economic climate, customers not eligible to participate in the SMEEP should not experience EEC rate increases as a result of the SMEEP's creation. It would not be equitable for a new program to give an exemption to one customer (or one group of customers) at the expense of all other customers who are not eligible to participate in the new program. All the options, other than Option 2, would result in non-participating customers paying more in EEC charges than they would have if the SMEEP had not been created. Therefore, the 2010 EEC rates set by the Board in this memorandum were calculated as if the SMEEP were not going to be implemented, and once participation in the program is known, the Board will reduce the 2010 EEU budget by the amount that the participants would have paid in EEC charges (using the data associated with those customers that was included in the EEC calculation).